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a significant portion of subscribers are receptive to full-service offerings (sometimes known as "one-stop-shopping"). For example, the Southern New England Telephone Corporation ("SNET") enjoyed a more than 150% increase in interLATA subscribers in Connecticut during the first nine months of 1996 (from 240,00 access lines at the end of 1995 to 616,000 access lines at the end of September, 1996). SNET attributed its 30% interLATA market share in Connecticut to the untapped demand for one-stop-shopping. See Communications Daily, Tuesday, Dec. 3, 1996, at p. 1. Similarly, GTE has used one-stop-shopping offerings to sign up nearly 750,000 long distance customers in its regions by the end of this year. See Communications Daily, Tuesday, Nov. 26, 1996, at p. 4. The apparently substantial pent-up demand for full-service offerings has several consequences for the Bell Companies' Section 271 applications.

## A. Timing of Entry.

The Bell Companies would obtain an enormous first-mover advantage if they are permitted to enter the in-region interLATA market, and thereby begin providing one-stop-shopping services, before new entrants have a realistic opportunity to enter the local market (either through network elements, local exchange resale, or their own facilities) on a geographically pervasive basis. Although SNET and GTE are not Bell Companies, their experience as interLATA carriers in 1996 is instructive. SNET has become the second largest interLATA carrier in Connecticut with a 30% market share, and GTE asserts that it is signing up 6,000 long distance customers per day. See "Deregulation Fails to Stop Rising Long Distance Rates," The Richmond Times Dispatch, Sunday, Dec. 8, 1996, at E-1. If the Bell Companies have the full-service market segment to themselves for any period of time, the adverse consequences for competition will be significant.

Therefore, the Department should recommend to the FCC that the Bell Companies not be permitted to enter the in-region interLATA market before there is measurable, actual, effective local competition on a geographically pervasive basis. Even a gap of a few months between in-region interLATA entry for a Bell Company, and the ability of new local entrants to offer competing full-service offerings, would cause a significant market dislocation contrary to the public interest. If the FCC is forced to act upon a Bell Company's Section 271 application under Section 271(d)(3) at a time when grant of the application would

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give the Bell Company a significant first-mover advantage, the FCC should deny the application without removing the Bell Company's option to re-file the application at a later time.

## **B. PIC-Change Procedures and Operations Support Systems.**

GTE's apparent success in signing up 6,000 new long distance customers per day (which equates to over 2 million new subscribers per year) underscores the paramount need for the necessary PIC-change procedures to permit new local entrants to sign up just as many local customers just as quickly and inexpensively as the Bell Companies can sign up long distance customers. It is not open to serious dispute that if the Bell Companies were authorized to enter the in-region interLATA market today, they would be able to sign up long distance customers faster, more efficiently, and more inexpensively than their own PIC-change procedures would permit new local entrants to sign up local customers. That would give the Bell Companies an unanswerable competitive advantage in the full-service market. Therefore, the Department should recommend that in-region interLATA entry occur only after the necessary PIC-change procedures are in place, and proven workable, to eliminate this disparity.

Similarly, the Bell Companies should not be permitted to enter the in-region interLATA market before they have fully complied with the FCC's rules directing incumbent LECs to provide non-discriminatory access to their operations support systems ("OSS") functions, including pre-ordering, ordering, provisioning, maintenance and repair, and billing. Without non-discriminatory access to critical OSS functions, local competition will never move from myth to reality.

## **C. Actual Local Competition**

It is not enough to justify in-region interLATA entry that the Bell Companies establish offerings on paper that they claim satisfy the requirements of Section 271. Rather, the Bell Companies must show that the entry tools they have established on paper work in practice in a commercially meaningful way. Ameritech's abortive attempts to offer unbundled switching in Illinois illustrates the importance of not crediting paper offerings until they have been validated by marketplace experience. Initially, Ameritech offered to unbundle switch

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ports (not switching capacity) without permitting carriers to link the port to Ameritech's loops. After that offering was rejected by state authorities, Ameritech modified its offering but insisted that it retain all access revenues and established restrictive minimum usage requirements. After that offering was rejected by state authorities, Ameritech filed yet another version of its unbundled switch offering, which still suffers from the fundamental deficiency that it does not permit new entrants to collect access revenues for their own customers. The entire process has taken over six months without a solution, and local competition has been stymied in the meantime. The Department must look to the real-world impact of the arrangements offered by the Bell Companies on paper to promote local entry. Those arrangements must actually work in practice so that new entrants can enter the local market efficiently to provide local exchange services in head-to-head competition with the Bell Companies.

### **D. Interstate Access/Universal Service.**

The Bell Companies will obtain an artificial and anti-competitive advantage in the full-service market segment if they continue to earn excessive revenues from their interstate access services. In particular, excess revenues would give the Bell Companies a significant advantage in marketing retail full-service offerings to one-stop-shopping customers. With excess wholesale revenues locked in, the Bell Companies could maximize revenues by cutting their retail margins to the bone, gaining interLATA market share, and stimulating additional toll calling. In the process, the Bell Companies would impose a classic cost-price squeeze upon other full-service providers, whose costs would be inflated by the Bell Companies' access rates but whose retail rates would effectively be capped by those charged by the Bell Companies.

It is no answer to note that the Bell Companies must provide in-region interLATA services through a separate affiliate under Section 272. Even when that affiliate pays the Bell Company's access rates, the true cost of access to the Bell Company is the underlying economic cost of providing access. In evaluating the affiliate's in-region interLATA service offerings, the Bell Company will analyze the one-stop-shopping service as an entire economic package, including its wholesale access services. As a result, the separate affiliate requirement does not remove either

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the ability or incentive for the Bell Companies to impose a cost-prize squeeze upon competing full-service providers.

The FCC has committed to initiating a proceeding to reform its access charge regime under 47 C.F.R. Part 69, in tandem with related proceedings on universal service pursuant to the 1996 Act. Presumably, in those proceedings the FCC will adopt new rules which ameliorate any marketplace advantage that the Bell Companies might enjoy through excessive interstate access revenues. However, until those proceedings are concluded and the FCC's new rules and policies implemented, the Bell Companies should not be permitted to enter the in-region interLATA market. Again, given the speed and ease with which the Bell Companies can enter the in-region interLATA market and lock up full-service customers, even a few months' gap between such entry and the implementation of the FCC's new interstate access and universal service rules and policies could cause harmful market distortions.

Further, to the extent the FCC establishes a transition plan whereby the Bell Companies can retain excessive interstate access revenues for some period of time, the Bell Companies should not be permitted to enter the in-region interLATA market until that transition plan is terminated. In the alternative, the Bell Companies should be permitted to elect to forego the transition plan in exchange for authority to enter the in-region interLATA market (provided of course that they satisfy all other statutory requirements). It should be noted that the FCC, in establishing an access charge transition plan for unbundled network elements in CC Docket No. 96-98, provided that the Bell Companies should forego any transition access charges upon obtaining authority to enter the in-region interLATA market. In so holding, the FCC correctly recognized that excessive access revenues cannot be reconciled with in-region interLATA entry by the Bell Companies.

### **E. Intrastate Access/Universal Service.**

The Bell Companies would enjoy the same anti-competitive advantage in the full-service market from excessive intrastate access revenues. However, as the FCC's access and universal service proceedings will be limited to interstate services, the reform of intrastate access charges and universal service policies will be addressed, if at all, by state authorities on a state-by-state basis. Given that 30% of all toll calls are

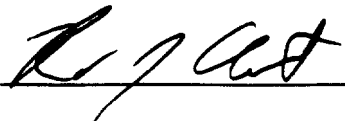
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intrastate in nature, the excessive revenues earned by the Bell Companies from intrastate access charges are competitively significant. In order to prevent those revenues from undermining competitive conditions in the nascent full-services market, the Department should recommend to the FCC that a Bell Company not be authorized to enter the in-region interLATA market in any state which has not required the Bell Companies to modify their intrastate access charges to remove the excessive revenues that could be used to subsidize one-stop-shopping offerings.

Should you have any questions concerning this information or views supplied in this letter, please do not hesitate to contact the undersigned attorneys.

Respectfully submitted,

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December 13, 1996

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**ATTACHMENT B**

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C.

RECEIVED

FEB - 1 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Transport Rate Structure and ) CC Docket No. 91-213  
Pricing )

TO: The Commission

COMMENTS OF THE COMPETITIVE  
TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, submits these comments in response to the Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 7006 (1992) [hereinafter "Report and Order"], released on October 16, 1992 in the above-captioned proceeding.<sup>1</sup>

I. INTRODUCTION AND SUMMARY

The interim transport system adopted in the Report and Order lays the foundation for an economic and non-discriminatory structure of switched transport rates. Most importantly, the Commission established a unitary rate structure for tandem-switched transport and created pricing mechanisms which will, with certain modifications,<sup>2</sup> ensure a system of equivalent rates for

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<sup>1</sup> CompTel's interest is a matter of record in this proceeding. CompTel hereby incorporates into the instant record its previous submissions in CC Docket Nos. 78-72 and 91-141. In these comments, CompTel will use the same short-form references to parties as in CompTel's prior pleadings in this docket. Unless otherwise specified, all references to comments, reply comments and petitions for reconsideration shall be to those filed, respectively, on November 22, 1991, January 22, 1992 and December 21, 1992.

<sup>2</sup> While CompTel summarizes the salient aspects of its petition  
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tandem-switched and through-routed transport.<sup>3</sup> The ultimate result will be (i) the provision of switched transport to all customers as an end-to-end service at rates based upon economic costs; and (ii) the recovery of the uneconomic costs allocated to switched transport services from all transport users on a proportionate basis. Contrary to those who suggest that the Commission must balance or sacrifice one or more of its three policy objectives in this proceeding, CompTel submits that a system of equivalent pricing<sup>4</sup> built upon a unitary rate structure for tandem-switched transport will optimize network efficiency, interexchange competition, and local exchange competition.

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Continued from previous page

for reconsideration in the instant comments, it does not attempt to reiterate each adjustment or modification proposed therein. CompTel nevertheless continues to recommend that the Commission adopt all such proposals for its interim plan and, where appropriate, incorporate them into its permanent switched transport rules.

3 As CompTel has noted previously, the term "direct-trunked transport" coined by the Commission is inaccurate because it implies that flat-rated transport is always routed in a straight line between the end office and the serving wire center ("SWC"). See Petition for Reconsideration and Clarification of CompTel at 1 n.2. The diagrams which the Commission appended to the Report and Order, 7 FCC Rcd at 7075, 7077-78 & 7080, are similarly incorrect. For an example of more accurate diagrams, see, e.g., "Switched Transport Rate Structure," Ex Parte Presentation by CompTel, May 28, 1992.

4 CompTel wishes to emphasize that equivalent pricing is not equal charge pricing. Under a system of equivalent pricing, the per-unit charge to each customer need not be the same or priced on the same basis (i.e., flat rate versus per-minute rate). Equivalent pricing simply refers to switched transport rate relationships which reflect economic costs. The purpose of equivalent pricing is to prevent LECs from discriminating unreasonably against particular classes of access customers in the pricing of switched transport services.

A principal purpose of the instant comments is to clarify and summarize salient aspects of, and the record support for, the unitary rate structure and equivalent transport pricing. Throughout this proceeding, those who have questioned these two initiatives have done so based primarily upon a misunderstanding of what they provide and how they would be implemented. Once all interested parties are reading from the same page, CompTel believes there can be no serious disagreement that the unitary rate structure and a system of equivalent pricing are the best (if not the only) solutions that promote all three Commission objectives in this proceeding.

CompTel supports the Commission's decision to adopt separate rate structures for interoffice transport and entrance facilities. As regards entrance facilities, CompTel accepts flat-rate pricing, despite the cost disadvantage low-volume IXCs will suffer compared to AT&T, because such facilities are truly dedicated to a single IXC and, therefore, should be priced accordingly. As such, CompTel urges the Commission to remove the ban upon term and volume discounts by local exchange carriers ("LECs") for entrance facilities. In this proceeding, the Commission's focus should be upon the appropriate rate structure and rate levels for interoffice switched transport.

The Commission should adopt the unitary rate structure for tandem-switched transport because that structure is consistent with the traditional LEC practice of offering end-to-end services (defined here as transport between the end office and the SWC) rather than an amalgam of piece-part facilities to its customers.

In addition, the unitary rate structure reflects how LECs design their interoffice fiber network and is consistent with the lack of customer control over the number, placement and deployment of access tandems.

The so-called partitioned structure must be rejected because it imposes several types of uneconomic costs upon tandem-switched transport users. For example, it would require tandem-switched users to pay two sets of fixed charges while through-routed users would pay only one set of fixed charges even when identical routing occurs. As another example, the partitioned rate structure would impose a discriminatory mileage penalty upon tandem-switched users. In addition, the partitioned rate structure would be extremely difficult to implement and administer, as the Commission would have to assert regulatory authority on a continuing basis over LEC decisions regarding tandem deployment.

Equivalent transport pricing is entailed by the reality that LECs use the same facilities interchangeably to furnish all switched transport services. Rather than permit LECs to load uneconomic costs disproportionately upon particular classes of customers, the Commission should mandate rate relationships between DS1 and DS3 through-routed transport, as well as between through-routed and tandem-switched transport, in order to ensure that all transport rates reflect economic costs to the same degree. In particular, the Commission should adopt a benchmark DS3 to DS1 ratio on the order of 24 to 1 to ensure an economic cost relationship between DS1 and DS3 through-routed rates and to

provide efficient incentives for users to migrate from DS1 to DS3 services.

As an adjunct to its rules governing transport rate structure and pricing, the Commission must ensure that transport customers are able to implement resale and sharing arrangements regarding DS1 and DS3 services. To do so, the Commission must require the LECs to allocate DS3 capacity in DS1 increments among numerous IXCs as directed by the DS3 customer. However, the Commission cannot rely upon resale and sharing to remove the LECs' incentive to discriminate in favor of AT&T in the pricing of DS3 services. CompTel has performed an analysis of the Chicago LATA which demonstrates that second- and third-tier IXCs simply do not have sufficient through-routed transport minutes, either singly or combined, to impose significant competitive discipline upon LEC pricing through resale and sharing arrangements.

Finally, CompTel believes that tandem-switched users should be responsible for the cost consequences of their use of the tandem switch, but those consequences are not known, and cannot be determined, absent an empirical incremental cost study. CompTel urges the Commission to direct the LECs to conduct such a study during the window of opportunity afforded by the interim two year system.

## II. THE COMMISSION SHOULD ADOPT A UNITARY RATE STRUCTURE FOR TANDEM-SWITCHED TRANSPORT

The Report and Order adopted separate rate structures for interoffice switched transport (i.e., transport between the end office and the SWC) and entrance facilities. With respect to

entrance facilities, CompTel supports this dichotomy even though flat-rate pricing inevitably will permit AT&T to receive lower unit rates for its entrance facilities than third-tier IXC's with much lower traffic volumes. The reason is that entrance facilities, unlike interoffice facilities, are truly dedicated to a single IXC customer and, therefore, should be priced to reflect IXC-specific conditions. CompTel supports the elimination of the prohibition on the use of term and volume discounts by LECs in pricing entrance facilities.<sup>5</sup> CompTel expects that third-tier IXC's can, and already do, qualify for term discounts based upon contractual arrangements with LECs. Given the general consensus on the rate structure for entrance facilities, the Commission should focus its attention in these further proceedings upon the appropriate rate structure and rate levels for interoffice switched transport.

With respect to interoffice tandem-switched transport, the Report and Order adopted a unitary rate structure on an interim basis through October 31, 1995. A unitary rate structure involves a single per-minute rate for transport between the serving wire center ("SWC") and the end office. Under the unitary structure, the mileage component of the rate, if any, is based upon airline miles between the SWC and the end office. The unitary structure ensures that transport between the end office

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<sup>5</sup> However, CompTel does not endorse any and all rate levels or volume and term arrangements which the LECs must devise. The Commission should ensure that the LECs adhere to the requirements of Sections 201(b) and 202(a) of the Communications Act. 47 U.S.C. §§ 201(b) & 202(a).

and the SWC is priced as an end-to-end service rather than as an amalgam of piece-part facilities. It is imperative that the Commission adopt the unitary rate structure on a permanent basis in order to achieve its objectives of promoting network efficiency, local access competition and interexchange competition.

In adopting the unitary structure, the Report and Order correctly rejected the so-called partitioned rate structure. The partitioned structure involves two separate charges, one a per-minute charge for transport between the end office and the tandem and the other a flat charge for transport between the tandem and the SWC. Under the partitioned structure, customers would face two sets of fixed charges for transport between the end office and the SWC. The partitioned rate structure embodies pricing on a piece-part facilities basis and it would measure mileage separately for each "leg" of the transport. Proponents of the partitioned rate structure have advocated its application only to traffic which is subject to conventional switching at the tandem.

The Commission should adopt the unitary structure because it maintains a consistent definition of all switched transport -- both through-routed and tandem-switched transport -- which traverses the same interoffice fiber network.<sup>6</sup> Particularly

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<sup>6</sup> For LEC statements about the use of digital and fiber facilities in their transport networks, see, e.g., Supplemental Comments of Pacific Bell, CC docket No. 91-141, filed Nov. 5, 1991, at 5; Supplemental Comments of Southwestern Bell, CC Docket No. 91-141, filed Nov. 5, 1991, at 3; Supplemental Comments of US West, CC Docket No. 91-141, filed Nov. 5, 1991, at 7 n.16.

given the emergence of transport technologies which deal in packets rather than circuits, it makes no sense to single out traffic which is broken down into circuits through one kind of facilities sharing -- tandem switching -- for pricing on a piece-part facilities basis. Further, LECs historically have tariffed and provided end-to-end communications services, not the specific facilities which they have chosen in their own discretion to employ in routing the call. Indeed, by breaking down tandem-switched transport into its piece-part facilities, the partitioned rate structure would force the Commission to undertake the never-ending and time-consuming chore of regulating LEC decisions on tandem deployment.<sup>7</sup> Only the unitary structure prices tandem-switched transport as an end-to-end service consistent with historical LEC practices.

A comparison of through-routed and tandem-switched transport underscores the arbitrariness of any rate structure which prices one type of transport, but not the other, as an end-to-end service. The record shows that LECs often place through-routed traffic side-by-side with tandem-switched traffic in the same fiber facilities transiting the same tandem location.<sup>8</sup> Through-routed traffic is generally multiplexed to some degree upon both entering and exiting the tandem location, while tandem-switched traffic, as the term implies, is multiplexed and then

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<sup>7</sup> See generally WilTel Petition for Expedited Rulemaking, CC Docket No. 91-213, filed June 11, 1992.

<sup>8</sup> E.g., Comments of CompTel at 30; Reply Comments of CompTel at 29-30; Reply Comments of Sprint at 7.

routed through the tandem switch.<sup>9</sup> The small technical differences in the handling of through-routed and tandem-switched traffic (i.e., multiplexing versus switching) cannot justify imposing a piece-part tariff structure upon tandem-switched customers while pricing through-routed transport as an end-to-end service.

Further, the unitary rate structure is consistent with the fact that the LECs, not users, control the number, placement and deployment of access tandems or end offices.<sup>10</sup> The LECs design their interoffice transport networks primarily to facilitate intraLATA and intrastate toll traffic;<sup>11</sup> tandem-switched interstate traffic is, by comparison, incidental traffic over this network. In designing their interoffice networks, the LECs seek to maximize overall network efficiency even when that occurs at the expense of tandem-switched interstate traffic. A unitary rate structure makes transport rates transparent to LEC decisions regarding network design, while a partitioned rate structure holds the customer hostage to LEC decisions on the facilities configuration of their interoffice networks.

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<sup>9</sup> There is no hard evidence in the record regarding the comparative tandem costs attributable to through-routed and tandem-switched transport.

<sup>10</sup> The LECs have conceded that they "control the placement of access tandems and end offices based upon economic design criteria." See Comments of NYNEX at 11; see also Comments of WilTel at 23-24 & 29; Comments of Metromedia at 8.

<sup>11</sup> E.g., Comments of Bell Atlantic, CC Docket No. 91-141, filed Aug. 6, 1991, at 17 n.40; J. Fischer & A. Halprin, "Echoes from the Past: A Call for a Comprehensive Resolution of Local Access Issues" at 34 (Nov. 1991).



Consistent with price cap theory, the LECs should bear the risks (i.e., the potential gains or losses) of the decisions they make in designing, constructing and operating their interoffice networks.

Unlike the unitary structure, a partitioned rate structure would impose several uneconomic cost penalties upon tandem-switched transport users. For example, the partitioned structure would impose two sets of fixed charges upon the tandem-switched transport user, while a through-routed customer would pay only one set of fixed charges even though its traffic might follow the same route and be carried in the same fiber facility.<sup>12</sup> As transport rates become less distance sensitive, a primary determinant of cost will be the number of separate links which the customer is obligated to buy. By forcing the customer to purchase two separate facilities on a piece-part basis rather than a single end-to-end service, the partitioned rate structure would impose a substantial uneconomic cost penalty upon the customer. There is no economic or technical justification for imposing two sets of fixed charges upon the tandem-switched customer while imposing only one set of fixed charges upon the through-routed customer.

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<sup>12</sup> It has been argued that one set of fixed charges can be backed out of the per-minute rate under a partitioned rate structure. However, CompTel believes it is inappropriate, and ultimately ineffective, to seek to cure a defect in the rate structure through the manipulation of rate levels. Even if it could be accurately determined what amount should be backed out of the per-minute rate (which is far from clear), it would be difficult if not impossible to prevent LECs from nullifying that adjustment through future rate changes.

As another example, to the extent LECs continue to include a mileage component in their interoffice rates, the partitioned rate structure would impose an additional cost penalty upon tandem-switched users because distance would be measured by the actual routing of the traffic. Particularly in cases where the LEC has designed its interoffice network with tandems far removed from end offices, the penalty could be significant. By contrast, the mileage component of the rate for through-routed traffic is calculated by direct airline miles between the end office and the SWC even when such traffic transits an access tandem. Again, there is no economic or technical basis for discriminating between tandem-switched and through-routed customers in calculating mileage.

These uneconomic cost penalties would directly undermine interexchange competition. The record shows that low-volume interexchange carriers ("IXCs") are far more likely to use tandem-switched transport than high-volume IXCs.<sup>13</sup> Consequently, the uneconomic cost penalties of a partitioned rate structure would fall disproportionately upon one class of IXCs.<sup>14</sup> Equally important, a partitioned structure would establish strong incentives for IXCs to reconfigure their networks in uneconomic ways. In particular, IXCs would have incentives to re-locate

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<sup>13</sup> E.g., Comments of CompTel at 39-40 & n.66.

<sup>14</sup> For quantitative data on the disproportionate impact of a partitioned rate structure upon the transport costs of high-volume and low-volume IXCs, see, e.g., "Switched Transport Rate Structure," Ex Parte Presentation by CompTel, May 28, 1992, at page 16. See also Reply Comments of CompTel at 32-34 & Tables 2 & 3.

their points of presence ("POPs") closer to tandems (in effect, making the tandem a SWC) simply to eliminate the second set of fixed charges associated with tandem-to-SWC transport.<sup>15</sup>

Moreover, given substantial LEC and IXC investments in existing POP and entrance facilities under long-term contracts, as well as the continuing use of those facilities for Special Access traffic, POP relocation would be needlessly disruptive. In addition, IXCs would abandon (or decline to enter) certain rural and suburban areas in order to avoid the mileage penalty.<sup>16</sup> In either case, a partitioned structure would directly undermine the Commission's stated goals of promoting interexchange competition and network efficiency.

Several parties, most notably AT&T, have sought to portray the unitary structure as a mechanism for "protecting" low-volume IXCs and continuing the "subsidy" inherent in the equal charge system.<sup>17</sup> That portrayal is specious and totally unsupported by the record. AT&T apparently believes that saying something loud enough and long enough may ultimately lead people to believe it is true despite the absence of supporting data. In

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<sup>15</sup> See Comments of CompTel at 36-37; Reply Comments of CompTel at 34-35. Many other parties have agreed that uneconomic disparities between tandem-switched and through-routed rates would distort incentives and cause inefficient investment decisions and resource allocations. E.g., Comments of US West at 18-19; Comments of SNET at 4; Comments of Rochester at 4.

<sup>16</sup> E.g., Comments of Illinois Consolidated at 1; Comments of NECA at 2-3 & 6 n.13; Comments of OPASTCO at 3-4; Comments of Citizens Utilities Company at 3.

<sup>17</sup> See Petition for Reconsideration of AT&T at 5-8.

fact, the unitary structure is desirable because it eliminates unreasonable discrimination in the treatment of tandem-switched and through-routed customers. It is the partitioned structure championed by AT&T which imposes uneconomic costs needlessly upon tandem-switched transport users. As the preeminent through-routed access customer, AT&T has obvious business reasons to force its competitors to pay uneconomic cost penalties associated with the purchase of tandem-switched transport on a piece-part facilities basis rather than as an end-to-end service. The Commission should adopt the unitary rate structure because doing so promotes the Commission's policy goals in this proceeding.

Finally, CompTel wishes to clarify its position that LECs should not be prevented from giving customers the option of purchasing the tandem-to-SWC link at a flat rate,<sup>18</sup> so long as customers continue to have the option of purchasing end office-to-SWC tandem-switched transport on a unitary basis. CompTel is dubious that substantial demand exists or will develop over the near term for a flat-rated tandem-to-SWC product, but there are no policy reasons to prevent such a service option. However, CompTel wishes to point out that some through-routed transport also transits the tandem location. Although CompTel does not believe that any through-routed user would wish to take the end office-to-tandem link from the LEC while taking the tandem-to-SWC link from

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<sup>18</sup> Several parties have sought the flexibility to offer this option in order to compete against other transport providers. E.g., Petition for Reconsideration and Clarification of US West at 6; Petition for Reconsideration and Clarification of Southwestern Bell at 5-6.

a competing provider, there is no legitimate reason for LECs to preclude through-routed transport users from availing themselves of the same flat-rated tandem-to-SWC option that some LECs apparently desire to offer to tandem-switched users.

### III. THE FCC SHOULD ADOPT A SYSTEM OF EQUIVALENT PRICING

The record strongly supports the rate structure which the Commission adopted in the Report and Order: a flat rate for through-routed transport; a per-minute rate for tandem-switched transport; a flat rate for entrance facilities; and a per-minute residual interconnection charge ("RIC") to capture remaining switched transport revenues. Such a rate structure provides a flexible framework for recovering both the economic and non-economic costs currently allocated to switched transport without unfairly burdening a particular category of transport users or undermining interexchange competition.

Wholly apart from rate structure, the Commission should adopt a system of equivalent pricing to govern rate levels. The Report and Order found, and the record shows, that LECs use the same facilities interchangeably to furnish all switched transport services.<sup>19</sup> As a matter of policy and law, that technological reality entails mandatory rate relationships between tandem-switched and through-routed transport under a system of equivalent

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<sup>19</sup> 7 FCC Rcd at 7012 & 7036; see Comments of CompTel at 16-17; Comments of BellSouth at 11; Comments of GTE at 6; Comments of NIX at 18; Comments of Pacific Bell at 4; Comments of WilTel at 31; Comments of US West at 11 & 24; Comments of Cincinnati Bell at 5; Comments of Rochester at 6.

pricing. Under such a system, the rates for DS3 and DS1 through-routed transport must reflect economic costs to an equivalent extent, and the per-minute rate for tandem-switched transport must be derived from the DS3 and DS1 rates for through-routed transport.

A. The Benchmark Ratio

The Report and Order, 7 FCC Rcd at 7029-34, established a benchmark DS3 to DS1 ratio of 9.6 to 1 based upon the ratios reflected in the current special access prices of the largest LECs. In its petition for reconsideration, CompTel supported the Commission's decision to establish a DS3 to DS1 benchmark, but opposed the specific benchmark ratio chosen by the Commission. CompTel demonstrated that the Commission cannot reasonably transfer existing DS3 to DS1 ratios for Special Access services into the switched transport environment. Such ratios do not reflect economic cost differences between DS1 and DS3 services, but would instead introduce discriminatory pricing into the switched transport environment to the disadvantage of low-volume users.

In its petition, CompTel recommended that the Commission establish a benchmark DS3 to DS1 ratio which creates economically efficient incentives for IXC's to migrate from DS1 to DS3 services. The current ratios of the largest LECs, as well as the 9.6 to 1 ratio selected by the Commission, would encourage users to migrate from DS1s to DS3s when their traffic fills 50% or less of the DS3. (Attachment A, which is reproduced from CompTel's petition,

calculates the DS3 fill levels associated with various DS3 to DS1 ratios.) In order to encourage more efficient use of DS3 capacity, such as an 85% fill level, the Commission should adopt a benchmark DS3 to DS1 ratio on the order of 24 to 1. A 24 to 1 benchmark ratio is consistent with evidence in the record<sup>20</sup> and the Commission's description of the cost relationship between DS3 and DS1 capacity.<sup>21</sup>

Once established, the benchmark ratio should apply separately to the fixed and mileage interoffice transport rate elements. The ratio also should apply separately to each mileage band for interoffice transport. Compliance with the benchmark ratio should be mandatory for LECs. At a minimum, the Commission must make clear that LECs will bear a heavy burden of proof to justify transport rates which do not comply with the benchmark ratio. These measures are necessary to prevent LECs from "hiding" discrimination in their transport rate structures and to ensure that the benchmark ratio is the rule rather than the exception.<sup>22</sup>

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<sup>20</sup> E.g., Letter to D. Searcy, FCC, from J. Keithley, United Telephone companies (Aug. 6, 1992) & attachments (ex parte); Letter to D. Searcy, FCC, from J. Keithley, United Telephone companies (Sept. 9, 1992) (ex parte).

<sup>21</sup> See Report and Order, 7 FCC Rcd at 7031-32; see also Petition for Reconsideration and Clarification of CompTel at 8-9.

<sup>22</sup> See Petition for Reconsideration and Clarification by CompTel at 9-11. The Commission need not apply the benchmark ratio to entrance facilities. Id. However, should the need arise, the Commission in the future may wish to devise a separate benchmark applicable to entrance facilities.

## B. Price Caps

It is essential that the rate relationships established between DS1 and DS3 through-routed transport, and between through-routed and tandem-switched transport, be preserved intact over time. Therefore, the LECs should not be permitted to depart from equivalent pricing unless they meet a heavy burden to show that the mandatory rate relationships no longer reflect economic costs. This is necessary to preserve the integrity of the equivalent pricing system and to ensure that LECs do not use price caps as a pretext for re-balancing their transport rates in ways that discriminate unreasonably against particular classes of users.<sup>23</sup> To the extent the LECs require pricing flexibility to compete fairly against other transport providers, CompTel believes that zone pricing is appropriate for switched transport.<sup>24</sup>

In addition, the Commission should require the LECs to use historical rather than reconfigured demand in establishing switched transport rates.<sup>25</sup> The Commission has recognized that LEC estimates of IXC reconfiguration decisions are of unproven reliability and that LECs have economic incentives to distort such

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<sup>23</sup> For a quantitative analysis of the extent to which certain tariffed DS1 rates have not moved to cost-based levels as quickly as tariffed DS3 rates, see Letter from G. Morelli, CompTel, to D. Searcy, FCC (July 24, 1992) & attachment (Ex Parte).

<sup>24</sup> See Comments of CompTel, CC Docket No. 91-141, Phase I, filed Jan. 14, 1993 at 6-7 & n.13.

<sup>25</sup> See Petition for Reconsideration and Clarification of CompTel at 19-23.



estimates in order to maximize revenues.<sup>26</sup> The Commission also has recognized that price cap regulation entails the use of historical demand data, not projected demand data.<sup>27</sup>

### C. Resale

CompTel has previously demonstrated that the Commission must preserve the ability of IXC customers to engage in the resale and sharing of transport services.<sup>28</sup> In particular, the Commission should direct LECs to assign subunits of DS3 capacity (such as individual DS1s) to various different IXCs at the request of the DS3 customer. Without such circuit assignment flexibility, DS3 customers will lack the technical ability to attempt resale and sharing arrangements. Resale and sharing have the potential in the future to introduce some modicum of price discipline into this market segment, particularly for DS1 services and entrance facilities. Further, the prohibition of unreasonable restrictions upon resale and sharing is consistent with, and indeed mandated by, the Commission's previous policy in this area.<sup>29</sup>

At the same time, CompTel strongly cautions the Commission against the premature conclusion that resale and sharing, either now or in the near future, will inject sufficient

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<sup>26</sup> Id.; see also Report and Order, 7 FCC Rcd at 7041 n.128, 7046 & App. C.

<sup>27</sup> See Policy and Rules Concerning Rates for Dominant Carriers, 3 FCC Rcd 3195, 3435 (1988).

<sup>28</sup> See Petition for Reconsideration and Clarification of CompTel at 15-16.

<sup>29</sup> E.g., Resale and Shared Use, 83 FCC 2d 167 (1980).